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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,572	10/24/2003	Daniel Phillip Dailey	10541-1894	9046

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EXAMINER

GOODEN JR, BARRY J

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,572

Applicant(s)

DAILEY ET AL.

Examiner

Barry J. Gooden Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8-16 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8-16 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendments filed July 11, 2006. Currently claims 1, 3-5, 8-16, and 21 are pending; claims 2, 6, 7, and 17-20 are cancelled; claims 1, 3, 5, and 8 are amended; and claim 21 is new.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eric Sosenko on 9/21/2006.

The application has been amended as follows:

Claims 8-10, 12 and 13 are amended to depend from independent claim 5, rather than cancelled claim 6. As such "The instrument panel of claim 6", line 1 of claims 8-10, 12, and 13, has been replaced with -- The instrument panel of claim 5 --.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5 and 8-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At line 15, of claim 5, "together between" is unclear. Examiner suggests removing the terminology from the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 5 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lipkin, US Patent 3,778,085.

In regards to claim 1, Lipkin shows all of the claimed elements including a modular airbag door assembly comprising:

an airbag chute (3) having a front side and a rear side and defining an opening extending therethrough;

a door panel (9) pivotally mounted to the front side of the said airbag chute (3) and covering said opening (Column 3, Lines 42-48);

said airbag door assembly further including a plurality of studs (8) extending from said rear side of said airbag chute (3), said studs (8) adapted to allow said airbag door assembly to be mounted to a substrate (1) with said rear side of said chute (3) being positioned toward a front side of the substrate (1); and,

a seal (11) extending over ends of both an outer periphery of said airbag chute (3) and an outer periphery of said door panel (9) to seal said outer periphery of said airbag chute (3) and said outer periphery of said door panel (9) (Reference is made to Figure 1);

wherein said seal (11) comprises tape affixed to and extending over said outer periphery of said airbag chute (3) and said door panel (9).

In regards to claim 5 and 8, Lipkin shows all of the claimed elements including an instrument panel for an automobile passenger compartment comprising:

a substrate (1) having an outer surface and an inner surface and defining an opening extending therethrough;

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a modular airbag door assembly mounted to said outer surface of said substrate (1), said modular airbag door assembly including an airbag chute having a front side and a rear side and defining an opening extending therethrough and a door panel pivotally mounted to said front side of said airbag chute and covering said opening mounted to said substrate to secure said airbag door assembly onto said outer surface of said substrate (1);

an airbag device mounted to said portions of said airbag chute (3) that extend through said opening; and,

a seal (11) extending over both an outer periphery of said airbag chute (3) and an outer periphery of said door panel (9) to seal said outer periphery of said airbag chute (3) and said outer periphery of said door panel (9);

wherein said seal (11) comprises tape affixed to and extending over said outer periphery of said airbag chute (3) and said door panel (9).

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Garner et al., US Patent 5,527,063.

In regards to claim 21, Garner et al. shows all of the claimed elements including an instrument panel for an automobile passenger compartment (16) comprising:

a substrate (14) having an outer surface and an inner surface and defining an opening (12) extending therethrough;

a modular airbag door assembly mounted to said outer surface of said substrate (14), said modular airbag door assembly including an airbag chute (22) having a front side and a rear side and defining an opening extending therethrough and a door panel (80) pivotally mounted to said front side of said airbag chute (22) and covering said opening mounted to said substrate (14) to secure said airbag door assembly onto said outer surface of said substrate (14);

an airbag device mounted to said portions of said airbag chute (22) that extend through said opening (Reference is made to Figure 1); and

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a seal (80a) positioned between said outer surface of said substrate (14) and said rear side of said airbag chute (22).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 10, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipkin in view of Dailey et al.

In regards to claims 10 and 12, Lipkin discloses all of the claimed elements including a door comprised of a flexible material, which is sufficiently thick to afford protection of the airbag, yet being sufficiently flexible to permit easy expansion of the airbag and a substrate rigid enough to not deform under the force of the deployment of the airbag into hazardous shapes. Lipkin also discloses the door having a top edge fastened to the chute (Column 3, lines 42-48).

Lipkin does not disclose a door panel formed from metal and a substrate formed of plastic.

Dailey et al. teaches of a door panel (24) formed from metal, stamped aluminum with a contoured lip for a pre-determined crease line, and a substrate (12) formed of plastic. Dailey like Lipkin discloses

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the door panel (24) including a top flap portion that is secured to the front side (20) of the airbag deployment hole (14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the door panel of Lipkin in view of the teachings of Dailey et al. to include a metal door and a plastic substrate so as to provide a lightweight and durable door capable of protecting the airbag, yet being sufficiently flexible to permit easy expansion of the airbag and so as to provide a substrate sufficiently rigid (Dailey et al., column 1, lines 47-48) to withstand the deployment force of the airbag.

In regards to claims 13-15, Lipkin discloses all of the claimed elements excluding a skin covering, including a weakened pattern, extending over said substrate and foam positioned between the skin covering and the substrate.

Dailey et al. teaches foam (44) positioned between the substrate (12) and a skin covering (42) extending over the substrate (12). The skin covering (42) including a pre-weakened pattern outlining an outer periphery of the door panel (24) and providing no external indicia of the airbag device (18) located beneath. The pre-weakened pattern provides a break point to allow a controlled portion of the skin covering (42) immediately over the modular airbag door assembly to break away upon deployment of the airbag device (18) (Column 2, Lines 54-67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the instrument panel of Lipkin in view of the teachings of Dailey et al. to include a skin covering, including a weakened portion, extending over the substrate with foam between the substrate and the skin covering so as to conceal the substrate and provide an aesthetically pleasing appearance to the interior of the vehicle (Dailey column 2, lines 37-67).

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lipkin in view of Dailey et al. as applied to claim 10 above, and further in view of Teranishi et al., US Patent 6,726,239 B1.

Lipkin in view of Dailey et al. teaches all of the claimed elements as previously discussed, except the door panel having stiffening ribs formed therein.

Teranishi et al. teaches the use of stiffening ribs (58) formed on a door panel (26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the door panel of Dailey et al. in view of the teachings of Teranishi et al. to include stiffening ribs so as to provide a door panel with enhanced strength.

12. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Lipkin in view of Dailey et al. as applied to claim 15 above, and further in view of Bauer, US Patent 5,611,564.

Lipkin in view of Dailey et al. teaches all of the claimed elements as previously discussed, except the substrate having an outwardly extending ridge acting as a tear initiator.

Bauer teaches the use of a substrate (48) having an outwardly extending ridge (58) acting as a tear initiator.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the substrate of Dailey et al. in view of the teachings of Bauer to include an outwardly extending ridge acting as a tear initiator so as to increase the ability of the foam to tear in the pre-weakened region of the skin.

13. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipkin in view of Garner et al.

In regards to claims 4 and 9, Lipkin shows all of the claimed elements excluding a seal provided between a rear side of an airbag chute and a front side of a substrate.

Garner et al. teaches of a seal (80a) provided between a rear side of an airbag chute (22) and a front side of a substrate (12).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the airbag device of Lipkin in view of the teachings of Garner et al. to include a seal positioned between the front side of the substrate and the rear side of the chute so as to isolate the airbag device from system vibrations and so as to facilitate ease of installation.

Response to Arguments

14. Applicant's arguments filed 7/11/2006 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

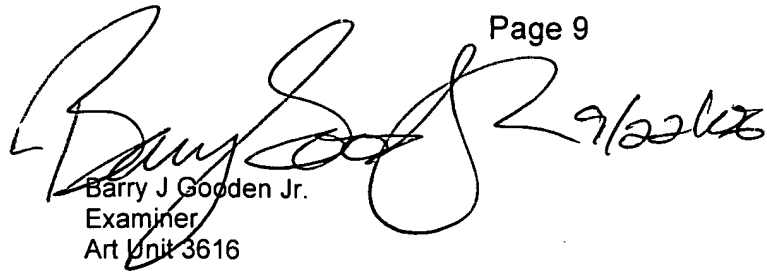
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry J. Gooden Jr. whose telephone number is (571) 272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Barry J Gooden Jr.
Examiner
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PRIMARY EXAMINER